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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,733	04/16/2001	Joerg Schlieffers	TELNP226US	6743

7590

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EXAMINER

LEE, DIANE I

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 04/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/835,733

Applicant(s)

SCHLIEFFERS ET AL.

Examiner

Diane I. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 14-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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### DETAILED ACTION

1. The request filed on 14 March 2002 for a Request for continued Examination (RCE) under 37 CFR 1.114 based on the Application No. 09/835,733 is acceptable and a RCE has been established. An action on the RCE follows.

2. Receipt is acknowledged of the Amendment filed 13 February 2002. Claims 14 and 21 have been amended and no claims have been newly added. Currently, claims 14-34 are pending in this application.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 14-17, 20-24, 28-29, and 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petteruti et al. [US 5,335,170-referred as Petteruti] in view of Tracy et al. [US 5,979,757-referred as Tracy].

Re claim 14: Petteruti discloses a hand-held optical device 50 (see figure 2a), comprising:

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a head portion 44 and the master module 10 as a body which include an upper surface having a display 34 mounted thereof (see col. 2, lines 16+ and figure 2A) and wherein the display having a horizontal configuration (i.e., figure 1 shows the display is configured such that the information would be displayed horizontally relative to the user's view);

a handle 112 that extends from a bottom surface of the body (see figure 2A).

Petteruti does not disclose the display being configurable according to the user's hand or vertically to provide portrait view and horizontally to provide landscape view.

Tracy discloses a hand-held optical scanning device for communicating information over a wireless communication network. Tracy shows that the a hand-held optical scanning device having a display, the display having a horizontal configuration and being configurable according to user's preference, i.e., a reconfiguration key setting 79A which permits the system to automatically reconfigured its display to reflect the user's preference which include an alignment for the user's preferred viewing angle based on the user's hand holding the scanning device (see figure 2). This reconfiguration key will automatically reconfigure the display to change the display configuration from the first configuration (i.e., the horizontal configuration to provide a landscape view) to a second configuration (i.e., the vertical configuration to provide a portrait view) (see col. 5, lines 10+).

In view of Tracy's teaching, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate a display having a reconfiguration function in the device of Petteruti in order to provide a display which capable of reconfiguring its orientation to reflect the user's preference. Such modification would have provided Petteruti a scanning device with a display that configure to accommodates a user's hand and maintained a correct alignment for a proper viewing.

Although Tracy teaches the display automatically reconfigurable from the first configuration (i.e., the horizontal configuration to provide a landscape view) to a second configuration (i.e., the vertical configuration to provide a portrait view) to reflect the user's preference, Petteruti as modified by Tracy is

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silent with respect the specific use of the display configuration mechanism (i.e., the display configurable according to a left handed and a right handed user's hand).

However, it would have been an obvious to an artisan of ordinary skill in the art at the time the invention was made to recognize that such modification (i.e., display reconfigurable from the first view to the second view) in the system of Petteruti would obviously have provided the scanning device with the display which is configurable to accommodate a user's hand and maintained a correct alignment for a proper viewing for a left handed and a right handed user. Furthermore, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Re claims 21 and 32-34: Petteruti disclose the hand-held optical device a body having an optical scanning module arranged to scan objects in a direction outward from a first distal end (i.e., scanning module 12), the body including an upper surface having a display mounted thereon (see figure 2A-2B). The handle being joined at a selected angle with respect to the body. The handle extends from a bottom surface of the body at the first distal end (see figure 2A) such that the bottom surface of the body rests on a radial surface of a user's hand when the user grasps the handle. This construction of the scanner applies its weight body (i.e., through the first/proximal end of the body portion) to the user's hand when the user grasps the handle portion and distributes its weight of the scanning on the radial surface of a user's hand. Therefore, when the user grasps the handle portion, the user obviously has an ability to adjust the viewing angle of the display by maneuvering the proximal end of the bottom surface of the body with the wrist of the user (the specific illustration not shown in figure). Therefore, the handle being configurable to accommodate the user's hand (see figure 2A).

Re claims 16-17 and 29: Petteruti teaches the scanning device having a RF antenna 40 and associated RF electronics 39 to allow wireless RF communication (see col. 2, lines 28+).

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Re claim 20: Petteruti discloses the body portion having a CCD scanner 90, a controller 98, a LCD display 34, a keyboard 36, and EEPOT 112. The EEPOT which is controlled by the input means to control the output of the charge pump which in turn controls the contrast of the display 34 (see col. 6, lines 30+). Therefore, the display is configurable to adapt to a user's preference.

Re claims 15, 22-24 and 28: Petteruti shows that the handle is integrally molded with the bottom of the body and includes a trigger 46, which activates the scanner (i.e., actuate the reading process). The trigger can be single or dual finger trigger (i.e., the user may apply a single or dual fingers to actuate the trigger) (see figure 2A).

5. Claims 18-19, 25-27, and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petteruti as modified by Tracy as applied to claim 14 above, and further in view of Reynolds et al. [US 5,828,052-referred as Reynolds]. The teachings of Petteruti as modified by Tracy have been discussed above.

Re claims 18, 25-27, and 30: Petteruti as modified by Tracy does not disclose the body including a lower housing member and an upper housing member that forms a cover, a resilient sealing member interposed between the lower housing member and cover to form a dust and moisture resistance seal there between.

Reynold discloses a hand-held optical scanning device 20 having a body portion 22, 34 and a handle portion 26 that extends from a bottom surface of the body portion. The handle being joined at a selected angle with respect to the body to cause a proximal end of a bottom surface of the body to rest on a radial surface of a user's hand when the user grasps the handle. Reynolds further teaches that the body portion include a lower housing member 34 and an upper housing member 22 that forms a cover (see figure 3). The lower housing is made of elastomers to protect underlying surfaces of the scanner and extends a distance to cover substantial portion of periphery of the body. The lower housing provides an environmental protection by acting as a gasket between the body and the handle portions thereby

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inhibiting contaminants from entering into the interior of the scanner (see col. 3, lines 56+). This lower housing that is made of elastomers provides the claimed function of a resilient sealing member interposed between the lower housing member and cover to form a dust and moisture resistance seal there between. The lower housing also provides a bumping surface that protects a user's hand (see col. 3, lines 53+).

In view of Reynol's teaching, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the design structure of the body portion in the scanning device of Petteruti as modified by Tracy in order to provide an ergonomic structural of scanning device and to protect the internal components of the scanner from environmental contaminants.

Re claims 19 and 31: Due to the fact that Petteruti teaches that the scanning device having a controller 82 which processes the digital signal (see col. 5, lines 57+ and col. 6, lines 4+), it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to recognize that the display device would be a digital display since the controller controls the CCD scanner and the display device thereof.

### *Response to Arguments*

6 Applicant's arguments filed 13 February 2002 have been fully considered but they are not persuasive.

7. In response to applicant's argument with respect to amended claim 14 recites the display having horizontal configuration that is configurable according tot a left handed and right handed user's hand, and neither Petteruti nor Tracy alone or in combination disclose configuring a hand-held scanner display accommodating scanner operations for left and right handed user as recited in amended claim 14; the examiner respectfully disagrees. Petteruti discloses a hand-held optical device 50 having a display which is horizontally configured (i.e., figure 1 shows the display is configured such that the information would be displayed horizontally relative to the user's view) and the Tracy reference is used in the rejection for

the teachings of display configurable according to the user's preference (see the rejection above). With respect the specific use of the user's preference of the display configuration (i.e., the display configurable according to a left handed and a right handed user's hand), it would have been an obvious to an artisan of ordinary skill in the art at the time the invention was made to recognize that such modification (i.e., a display reconfigurable from the first view to the second view) in the system of Petteruti is would obviously have provided the scanning device with the display which is configurable to accommodate a user's hand and maintained a correct alignment for a proper viewing for a left handed and a right handed user, and therefore, the scanning device of Petteruti as modified by Tracy is obviously capable of performing the intended use. Furthermore, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

8. In response to applicant's argument with respect to amended claim 21 on page 5, lines 25+ that Petteruti teaches a scanner base unit that is slidable into a handle adapter and that configuration positions the handle in a central location under the base unit which causes the display of viewing angle to be more difficult to observe from the user's hand, and therefore, Petteruti does not teach or suggest the advantage of an increased viewing angle as recited in claims 21. The examiner respectfully disagrees. Petteruti discloses the handle being joined at a selected angle with respect to the body. The handle extends from a bottom surface of the body at the first distal end (i.e., scanning module 12, see figure 2A) such that the bottom surface of the body rests on a radial surface of a user's hand when the user grasps the handle. This construction of the scanner applies its body weight to the user's hand (i.e., through the first/proximal end of the body portion) when the user grasps the handle portion and distributes its weight of the scanning on the radial surface of a user's hand. Therefore, when the user grasps the handle portion, the user obviously has an ability to adjust the viewing angle of the display by maneuvering the proximal end of the bottom



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surface of the body with the wrist of the user (the specific illustration not shown in figure). Therefore, the handle being configurable to accommodate the user's hand (see figure 2A) (see the discussion above).

6. In response to applicant's remark with respect to the hand movement of the Petteruti's scanning device can lead to more time wasted in operation of device which can increased inefficiency (see page 6, lines 4+), the examiner respectfully disagrees. It is noted that claim 21 as recited is applicable to a scanning device with a single use. therefore, the applicant's argument is not persuasive.

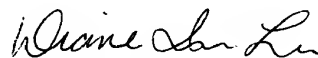
### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Needhan [US 5,402,152], Danielson et al. [US 5,227,614], Dao et al. [US 5,049,862] teaches a device have a display that reconfigurable according to a left handed and a right handed user's hand.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diane I. Lee whose telephone number is 703-306-3427. The examiner can normally be reached on Monday through Friday from 6:30 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 703-305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



Diane I. Lee  
Examiner  
Art Unit 2876

D.L.  
April 10, 2002